

CFP BOARD

CFP BOARD OF STANDARDS

HANDBOOK FOR RESPONDENTS

TABLE OF CONTENTS

I.	How Investigations Begin.....	3
II.	Collecting Information for Investigations and Informal Inquiries.....	4
III.	The Duty of Cooperation.....	6
IV.	How Investigations Conclude.....	8
V.	Receiving a Complaint.....	9
VI.	Other Documents with the Complaint.....	10
VII.	Scheduling Order, List of Potential Hearing Panelists and Acknowledgement Form.....	10
VIII.	Responding to the Complaint.....	12
IX.	Settling a Complaint.....	13
X.	Preparing for a Hearing.....	14
XI.	What to Expect During a Hearing?.....	16
XII.	What Happens After a Hearing?.....	17
XIII.	Additional Resources.....	18

Certified Financial Planner Board of Standards Center for Financial Planning, Inc. owns and licenses the certification marks CFP® and CERTIFIED FINANCIAL PLANNER™ in the United States to Certified Financial Planner Board of Standards, Inc., which authorizes individuals who successfully complete the organization’s initial and ongoing certification requirements to use the certification marks.

INTRODUCTION

PURPOSE OF THE HANDBOOK FOR RESPONDENTS

The mission of Certified Financial Planner Board of Standards, Inc. (CFP Board) is to credential competent and ethical financial planners, uphold CFP® certification as the recognized standard and advance the financial planning profession. CFP Board's *Code of Ethics and Standards of Conduct* and its predecessor standards (together, the *Code and Standards*), reflects the commitment that all CFP® professionals make to CFP Board to comply with high standards of competency and ethics. A violation of the *Code and Standards* or CFP Board's *Pathway to CFP® Certification Agreement (Pathway Agreement)* may constitute grounds for sanction. Categories of sanction include private censure, public censure, suspension, temporary bar from applying for or obtaining CFP® certification, revocation of the right to use the CFP Board certification marks, permanent bar from applying for or obtaining CFP® certification, and continuing education or other undertakings.

This Handbook for Respondents (Handbook) provides an overview of CFP Board's enforcement process, including the investigation process, information about what to do after receiving a Complaint, how to file an Answer or settle the Complaint, and what to expect before, during, and after a hearing or review held by CFP Board's Disciplinary and Ethics Commission (DEC). In conjunction with this Handbook, readers should familiarize themselves with CFP Board's [Procedural Rules](#). The *Procedural Rules* outlines procedures for investigating alleged misconduct and enforcing the *Code and Standards* and applies to any person who agreed to CFP Board's *Terms and Conditions of Certification and Trademark License (Terms and Conditions)* or the *Pathway Agreement*.

CFP Board's *Procedural Rules* sets forth CFP Board's enforcement process. In the event of an inconsistency between the *Procedural Rules* and this Handbook, the *Procedural Rules* shall take precedence. In issuing this Handbook, CFP Board is not creating any procedural or substantive rights or providing legal advice to a Respondent or any other person.

I. HOW INVESTIGATIONS BEGIN

a. How will I learn of an investigation about my conduct?

CFP Board's Enforcement Counsel — a term that refers to lawyers who have the authority to investigate and file Complaints for alleged violations of the *Code and Standards* as well as individuals who are operating at the direction of Enforcement Counsel — will send you a Notice of Investigation (NOI) that identifies you as the “Respondent” in that investigation. (Article 1.1.b. of CFP Board's *Procedural Rules*.) The NOI will likely arrive by email.

b. I received a request for information that was not titled “Notice of Investigation” but rather mentions an informal inquiry. What is the difference between an investigation and an informal inquiry?

CFP Board generally uses informal inquiries for matters where it is not clear if a full investigation is necessary, and to gather information from individuals other than CFP® professionals. Receiving an informal inquiry is an indication that Enforcement Counsel simply lacks enough information to determine whether a full investigation is necessary. Informal inquiries may come in writing or may be done orally. An informal inquiry is NOT an investigation. If an individual who received an informal inquiry becomes the subject of an investigation, CFP Board will notify the individual by sending the individual an NOI.

c. What will I be able to learn from a Notice of Investigation?

The NOI describes the general nature of the investigation and provides instructions on how to submit your response to the NOI. Your response should include any information and documents that Enforcement Counsel requested in the NOI. (Article 1.1.b.)

d. What does it mean for me to get an NOI?

An NOI merely indicates that CFP Board is gathering facts to determine if there has been a potential violation of the *Code and Standards* or *Pathway Agreement*. By itself, an NOI is not a finding or even an accusation of wrongdoing. Receiving an NOI does not mean that you must cease using the CFP® certification marks.

e. Do I need to retain an attorney?

That is up to you. An attorney is not required but could be helpful in navigating some aspects of an investigation and the adjudication process, described below. If you do choose to retain an attorney, which you may do at any time during the process, it will be at your own expense. Please remember that although Enforcement Counsel and/or DEC Counsel (introduced below) may provide information to you, neither is your lawyer.

f. What updates will CFP Board provide to me on the status of an investigation involving me?

If you ask, Enforcement Counsel will confirm to you that its investigation is ongoing. You will receive a formal closing letter if your matter is closed without proceeding to the Complaint stage. CFP Board retains the ability to reopen an investigation.

g. How long does an investigation take to complete?

Investigations vary in length depending on the facts involved. You will receive a formal closing letter if your matter is closed without proceeding to the Complaint stage.

h. Do I need to tell my firm about the investigation?

CFP Board does not have any rules that specifically require you to tell your firm about a CFP Board investigation. However, if your firm has a policy or you have otherwise agreed as part of your employment, affiliation or registration with the firm to provide such information, CFP Board's *Code and Standards* (D.2.) likely also requires you to comply with any such policy or agreement. Non-compliance could result in additional grounds for sanction. We strongly encourage you to check with your firm regarding your disclosure obligations.

II. COLLECTING INFORMATION FOR INVESTIGATIONS AND INFORMAL INQUIRIES

a. How may CFP Board request information from me?

Enforcement Counsel is authorized by CFP Board's *Procedural Rules* to seek a wide variety of information in its investigations in several different ways. These include Requests for Documents (RFDs), Requests for Information (RFIs), Requests for Admissions (RFAs) and Questions by Oral Examination. You should respond in the form and format requested by Enforcement Counsel. Enforcement Counsel can pursue these means with you directly and in some cases with third parties. (Article 1.2.)

b. What are the timelines for responding to these information requests?

For all information requests (except Questions by Oral Examination), you have 14 days from delivery of the request to deliver your responses to Enforcement Counsel, who is authorized to grant extensions for good reason. (Article 1.2.)

c. When have I “delivered” responses to Enforcement Counsel?

For documents sent by email, the date and time reflected in the metadata of the email is presumptive evidence of when the document was transmitted. A postmark on an envelope is presumptive evidence of the date the document was transmitted for delivery. (Article 16.5.)

Remember when calculating deadlines that unless the *Procedural Rules* specifies time in business days, you should calculate deadlines based on calendar days. When calculating time based on calendar days, weekend days or holidays that arise in the middle of a response period count toward the time you have to respond. But if the due date falls on a weekend or federal legal holiday, the period runs until the next working business day. (Article 16.6.)

d. What is a Request for Documents (RFD)?

With an RFD, Enforcement Counsel requests that you provide documents that relate to the investigation. (Article 1.2.b.) These documents might include account opening forms, investor suitability questionnaires, client notes, account statements, emails and other documents. Enforcement Counsel will specify a means of delivering responsive documents, likely through Clio, Enforcement Counsel's case management system. If you don't receive specific instructions, you should email the requested documents to investigations@cfpboard.org. (Article 16.2.) If you attach documents to an email, you must make reasonable efforts to encrypt the documents and separately (meaning in a different communication) give Enforcement Counsel a password or other security mechanism to open them. (Article 16.4.)

You may need to coordinate with your firm's legal and information technology (IT) staff to produce documents that belong to your firm or are otherwise stored on firm servers. These conversations may make your available time seem to run quickly, so if you get such a request, you should not waste time before you start to identify responsive documents and make a plan to put the documents in a format for delivery to Enforcement Counsel.

e. What is a Request for Information (RFI)?

RFIs are written questions that require written answers from you. (Article 1.2.b.)

f. After I have responded to CFP Board's requests in the NOI, is the investigation complete?

Enforcement Counsel might have follow-up questions after you submit your initial responses to a set of RFIs. In that event, Enforcement Counsel will send you Additional RFIs, which function in the same way as RFIs. If the investigation is complete and your matter is closed without proceeding to the Complaint stage, you will receive a formal closing letter.

g. What is a Request for Admission (RFA)?

RFAs are specific requests that are used to narrow factual issues in an investigation or at hearings, which can then be streamlined to focus on more challenging matters. (Article 1.2.d.) For example, an RFA might ask you to admit that you acted as a CFP® professional with respect to a particular client in a particular year. The RFA would say:

1. Admit that you acted as Jane Doe's CFP® professional during 2022 and 2023.

If it were true that you did that, your response would read:

1. Admit.

The RFA as written might not be true in all respects. If you worked with Ms. Doe during 2022 only, your response could read:

1. Deny. I acted as Jane Doe's CFP® professional during 2022 only.

It is important that you explain the factual basis for any denial and not merely say, "Deny." (Article 1.2.d.2.b.) If after making a reasonable inquiry into the RFA you don't have enough readily available information to admit or deny the RFA, briefly explain that in your response. (Article 1.2.d.2.c.)

RFAs can be very useful in establishing a number of non-controversial facts so that, if Enforcement Counsel files a Complaint that goes to a hearing, the Hearing Panel and parties don't have to spend unnecessary time on those facts at the hearing.

h. What are Questions by Oral Examination?

Enforcement Counsel may use Questions by Oral Examination to ask live questions, on the record, of you or third parties regarding any matters relating to CFP Board investigations. Your answers to these questions are under oath or affirmation. (Article 1.2.e.) A stenographic reporter will document the questions and answers (Article 1.2.e.) and produce a transcript of the proceedings. (Article 1.2.e.5.)

You will receive at least 14 days' notice of the questioning, which could happen in person or by phone or video. (Article 1.2.e.1.) Most Questions by Oral Examination happen by video using Zoom. Your attorney, if you have one, may attend the questioning with you. (Article 1.2.e.2.)

If the matter proceeds to a hearing, you will be able to receive a copy of the transcript of the Questions by Oral Examination with the questions and your answers, as well as any transcripts and copies of exhibits produced by witnesses in your investigation, in accordance with Article 6.1 of the *Procedural Rules*. (Article 1.2.e.5., referring to Article 6.1.)

Questions by Oral Examination are not depositions and are not governed by state or federal rules of civil procedure. (Article 1.2.e.4.)

i. Am I able to request documents from CFP Board?

You are not entitled to obtain documents from CFP Board during the investigation stage. If a Complaint is filed, you will be able to request that Enforcement Counsel produce documents related to your matter, subject to the limitations found in Article 6.1.

III. THE DUTY OF COOPERATION

a. Do I need to respond to CFP Board's information requests?

Yes. You agreed to cooperate with all aspects of CFP Board investigations in the *Pathway Agreement* and/or the *Terms and Conditions*, as well as via the *Code and Standards* and the *Procedural Rules*. (Article 1.3.a.)

b. Do I need to let CFP Board know how to reach me?

Yes. If your contact information changes for any reason, you must update your account with CFP Board and notify Enforcement Counsel promptly of the changes, including your email address, mailing address and phone numbers. (Article 1.3.a.6.)

Enforcement Counsel will attempt to reach you using the contact information contained in your CFP Board account. If you fail to update your CFP Board account when your contact information changes, you may miss important correspondence, which could result in a default under Article 4.

c. How does the Duty of Cooperation apply to the various means CFP Board uses to collect information in an investigation?

First, you must respond to all requests in an appropriate manner before the relevant deadlines expire.

- Requests for Documents (RFD)

You will need to provide all requested documents to Enforcement Counsel. Of course, you are not bound to produce documents that you don't have control of, and privileged documents may be withheld. (Article 1.3.a.1.) Furthermore, CFP Board will accept documents with redactions designed to protect the privacy of clients.

- Requests for Information (RFI)

You must provide truthful and complete information that is within your knowledge, that you can learn after making a reasonable inquiry, or that is within the knowledge of people or entities that you control. (Article 1.3.a.2.)

- Requests for Admission (RFA)

You must respond to all RFAs with one of the three available options: admission, denial, or stating a lack of sufficient knowledge to respond. Denials must be accompanied by a corresponding factual basis for the denial. Stating lack of knowledge must come only after a reasonable inquiry. If you choose this third option, you must explain that the information you can readily obtain will not allow you to admit or deny, and provide the factual basis for that statement. (Article 1.3.a.3.)

- Questions by Oral Examination

You must provide truthful and complete responses to Enforcement Counsel's questions. (Article 1.3.a.4.)

d. Do I need to encourage others to cooperate with my investigation?

Maybe. At times, third parties will have access to information or documents or be able to execute documents authorizing the release of such information related to your investigation. If you can authorize such third parties to release information or execute relevant documents, you will need to use reasonable efforts to do that. To the extent you are able and are requested to do so, you will also need to release others from liability for cooperating with CFP Board's investigation. (Article 1.3.a.5.)

e. After I provide responses or answers to these requests from Enforcement Counsel, are my obligations under the Duty of Cooperation complete?

Not necessarily. If you later learn that a disclosure or response is incomplete or incorrect in some material way, you are obligated to supplement documents and information provided to Enforcement Counsel. (Article 1.3.b.) This could mean submitting new documents, revising answers to previously issued RFIs or RFAs, or sitting for supplementary Questions by Oral Examination.

f. What could happen if I don't cooperate as described above?

If you fail to satisfy the Duty of Cooperation, Enforcement Counsel may deliver a Notice of Failure to Cooperate that identifies the failure and gives you 14 days to cure it. Enforcement Counsel retains discretion to send this Notice. (Article 1.3.d.) Certain instances of complete non-cooperation could result in a "default," which is described below. (Article 4.1.) If you are in default, Enforcement Counsel may file a Motion for Administrative Order without issuing a Notice of Failure to Cooperate, which DEC Counsel will decide. (Article 4.2.)

g. If I partially respond to an information request, could I receive a Notice of Failure to Cooperate?

Yes. You are bound to cooperate "fully" with CFP Board investigations. (*Pathway Agreement* at ¶ 14; *Terms and Conditions* at ¶ k.) Responding to Enforcement Counsel's information requests in ways that accomplish a technical response but convey no real information may result in Enforcement Counsel sending you a Notice of Failure to Cooperate.

h. What happens if I don't cure the failure to cooperate?

Failing to cure a Notice of Failure to Cooperate could result in a number of adverse consequences. A failure to cooperate could:

- constitute grounds for sanction. (Article 1.3.e.)
- be an aggravating factor when weighing sanctions for substantive violations. (Sanction Guidelines at 5.)

- lead the DEC to presume that you would have provided the requested documents or information if they weren't unfavorable to you. This presumption is called an "adverse inference" and could hurt your position at a hearing. (Article 1.3.e.)
- result in a default. (Article 4.1.c., citing Article 1.3.d.) If that happens, Enforcement Counsel may file a Motion for Administrative Order with DEC Counsel, which could result in a suspension or revocation of your CFP® certification or a temporary or permanent bar from seeking CFP® certification. (Article 4.2.)

For these reasons, failing to cooperate can quickly put your CFP® certification at risk.

i. Does the Duty of Cooperation have special application to Requests for Admission?

Yes. If you fail to respond to a specific RFA and fail to cure your failure to respond after a Notice of Failure to Cooperate has been issued with respect to that RFA, then the statement embedded in the RFA will be deemed admitted, which may have negative consequences for you. (Article 1.2.d.3.)

IV. HOW INVESTIGATIONS CONCLUDE

a. What are the possible outcomes of an investigation?

A number of things may occur. Enforcement Counsel could:

- determine that a matter doesn't warrant further investigation and dismiss it. (Article 1.4.b.1.)
- find no probable cause to believe that you violated the *Code and Standards* or the *Pathway Agreement*, and dismiss the investigation. (Article 1.4.b.2.)
- find probable cause that you did commit a relevant violation yet dismiss the matter with a Letter of Caution. If you receive a Letter of Caution, you may write a letter in response for the DEC to consider in the future. (Article 1.4.b.3.a.)

Most investigations by Enforcement Counsel are resolved in one of the ways described thus far. If your matter is dismissed without a finding of probable cause, you will receive a formal closing letter stating that the investigation is closed. This closing letter will not "exonerate" you and will not say that it does. Enforcement Counsel must consider the possibility that other facts not available to CFP Board could surface at some point. If an investigation is dismissed or closed with a Letter of Caution, Enforcement Counsel retains the ability to reopen an investigation. (Articles 1.4.b.1, 1.4.b.2, 1.4.b.3.a.)

After making a probable cause determination, Enforcement Counsel could also:

- engage with you in settlement discussions. (Article 1.4.b.3.b.) In that case, you and Enforcement Counsel could negotiate a proposed Consent Order that explains the facts of your matter, the grounds for sanction, and the sanction you're consenting to receive. (Article 8.2.a.1.) You and Enforcement Counsel may then present memos to the DEC explaining why the proposed Consent Order should be accepted. (Article 8.3.c.)
- file a Complaint. (Article 1.4.b.3.c.) If this happens, your matter will proceed towards a hearing before a Hearing Panel of the DEC. (Article 3.1.a.) You may still ultimately settle without a hearing (see Section VIII of this Handbook).

Enforcement Counsel also investigates certain candidates for CFP® certification or reinstatement with respect to the Fitness Standards, and if one of the triggering events listed in the Fitness Standards requires it, Enforcement Counsel could also resolve an investigation by sending you a Notice to

Commence a Petition for Fitness Determination. (Article 1.4.b.4.) That Petition would then be resolved under Article 5 of the *Procedural Rules*.

V. RECEIVING A COMPLAINT

a. How would I learn of a Complaint against me?

Complaints are generally delivered to Respondents in one of two ways: (1) by email, where the Complaint is a password-protected attachment, or (2) through a secure online file sharing tool.

b. I just received a Complaint. What does that mean, and what happens next?

Receiving a Complaint indicates that Enforcement Counsel has determined there is probable cause to believe that grounds for sanction exist. In other words, Enforcement Counsel believes that you have violated one or more provisions of CFP Board's *Code and Standards* or the *Pathway Agreement*. (Article 3.1.)

STEP 1: Read through the whole Complaint and review the documents attached as Exhibit A.

STEP 2: Review Article 3.2 of the *Procedural Rules: Answers and Amended Answers* to understand your obligations to respond to the Complaint and to provide other information within 30 days of the Complaint's filing date.

STEP 3: When received, review the Scheduling Order you will receive from DEC Counsel that will provide various deadlines between receipt of the Complaint and the hearing date. You should mark these deadlines on your calendar.

For more detailed information about Complaints and Answers, look at Article 3 of the *Procedural Rules*.

c. Who can I talk to at CFP Board about the Complaint?

Receiving a Complaint from Enforcement Counsel can be scary, although it doesn't have to be. The Complaint contains contact information for the Enforcement Counsel who delivered the Complaint to you. Feel free to reach out to this staff member with any questions about the Complaint. Be advised, while Enforcement Counsel can speak with you about the Complaint, Answer and Hearing processes, they cannot provide you with legal advice. Enforcement Counsel works in the interests of CFP Board and may take positions before the DEC that are adverse to your interests.

DEC Counsel is not permitted to have communications concerning the merits of any pending proceeding before the DEC, which would include your matter if you have received a Complaint, with one party without the other party present. If you contact DEC Counsel concerning the merits of any pending proceeding before the DEC, you must also include Enforcement Counsel on your communication.

If you have general questions that cannot be answered by Enforcement Counsel or DEC Counsel, you are strongly encouraged to contact CFP Board's Compliance Department via email at compliance@cfpboard.org. However, remember that no attorneys at CFP Board can provide you with legal advice. You may wish to seek counsel from your own lawyer.

d. Who will hear my case at the hearing?

A Hearing Panel of the DEC will hear your case. The DEC is charged with reviewing and taking appropriate action with respect to alleged violations of the *Code and Standards* and the *Pathway Agreement*. The Hearing Panel generally consists of three members, at least two of whom must be

CFP® professionals. The third member of the Hearing Panel could be a member of the public. The Hearing Panel will make a recommendation about the outcome of the case, which the DEC will review prior to issuing a final order.

VI. OTHER DOCUMENTS WITH THE COMPLAINT

a. What is Exhibit A?

With the Complaint, you will typically receive a set of documents titled Exhibit A. Exhibit A contains the relevant documents and information that Enforcement Counsel believes support the allegations against you that are set forth in the Complaint. Enforcement Counsel obtains most of these documents from you during the course of the investigation. As you read the Complaint, you will see references to Exhibit A. These references specify the pages in Exhibit A where you can find the information listed in the Complaint. For example, “(See Exhibit A at A2.)” or “(Id. at A2.)”

If you believe Enforcement Counsel might have additional documents or information not included in Exhibit A, you may request that Enforcement Counsel provide you with the relevant documents. (Article 6.1.)

b. What should I do if I did not receive an Exhibit A?

A Complaint issued without an attached Exhibit A generally arises due to a failure to cooperate with CFP Board’s investigation. If you believe the Complaint was issued to you in error, please contact the Enforcement Counsel who delivered the Complaint to you immediately. If you would like to challenge CFP Board’s allegations, refer to the section below about submitting an Answer to the Complaint.

Failing to file an Answer or contact CFP Board will result in a default. In the case of a default, Enforcement Counsel may file a Motion requesting that DEC Counsel issue an Administrative Order of suspension, bar or revocation. (Article 4.) Because a suspension, bar or revocation is a public sanction, CFP Board will publish the Administrative Order and/or a summary of its contents in a press release, on CFP Board’s website, or through other forms of public disclosure. (Articles 11, 17.7.)

VII. SCHEDULING ORDER, LIST OF POTENTIAL HEARING PANELISTS AND ACKNOWLEDGEMENT FORM

a. What is a Scheduling Order?

After Enforcement Counsel files a Complaint with the DEC, DEC Counsel will send to you and Enforcement Counsel an order that initially schedules important case deadlines and events. You should read the Scheduling Order closely because it may require that you take certain actions.

b. The Scheduling Order I received contains a range of projected hearing dates. What does that mean?

This is a short range of dates during which the DEC will likely hear your case. In accordance with the *Procedural Rules*, DEC Counsel uses the projected dates to calculate certain case deadlines that will be shown on the Scheduling Order. You may have a hearing on any of the dates provided and, accordingly, you should reserve the dates on your calendar. The final hearing date will be set forth in a Notice of Hearing that you will receive 30 days before the hearing starts.

c. Who is DEC Counsel?

The DEC is assisted by its own counsel, known as DEC Counsel. DEC Counsel has authority to provide legal counsel to the DEC, Hearing Panels and Settlement Review Panels, to decide Motions, and to facilitate hearings. (Preamble to the *Procedural Rules*.)

DEC Counsel works for CFP Board but does not serve the same role as Enforcement Counsel. While Enforcement Counsel investigates potential violations of the *Code and Standards* and sometimes prosecutes those allegations before the DEC, DEC Counsel provides legal counsel to the DEC to help the DEC take appropriate action. If you contact DEC Counsel concerning the merits of any pending proceeding before the DEC, which would include your matter if you have received a Complaint, you must also include Enforcement Counsel on your communication.

DEC Counsel is entirely neutral throughout the process. However, remember that no attorneys at CFP Board can provide you with legal advice, so you may wish to seek counsel from your own lawyer.

d. The Scheduling Order mentions a Motion to Request Recusal of a Potential Panel Member. What is that?

With the Scheduling Order from DEC Counsel, you should have received a list of potential panel members. This list may be updated from time to time. Please review the list to see if you want to file a motion seeking recusal of any person on the list based upon the Standard of Recusal in the *Procedural Rules*. Any such motion must be filed within 14 days after receiving the list or an update to the list.

If you do decide to request recusal of a potential panelist, you should file a Motion Requesting Recusal of the panelist that states “with particularity the grounds for the motion.” (Article 17.3.b.) Article 17.3.a. sets forth the Standard for Recusal when the panelist’s “impartiality might reasonably be questioned.” Relevant circumstances include a panelist who has a personal bias or prejudice against you or your counsel or personal knowledge of the facts that are in dispute. They also include when a panelist knows that the panelist or a member of the panelist’s family is a potential witness or someone with family or business ties to you. Any Motion you submit must state with particularity the rationale to support your recusal request. For example, a Motion that states that one of the potential panelists on the list works at the same large firm as you do may not be “particular” enough.

e. What is the Acknowledgment Form and how do I Request a Hearing?

DEC Counsel will send you the Scheduling Order with certain other documents attached or enclosed, including an Acknowledgment Form. This form will familiarize you with the various categories of sanctions that the DEC may impose. You will also use this form to tell DEC Counsel how you would prefer your matter to be reviewed.

STEP 1: Read and review the Acknowledgment Form. After reviewing the form, you must initial each page to indicate that you understand the information in the Acknowledgment Form.

STEP 2: Indicate whether you would prefer an in-person hearing or a video conference hearing by checking one of the boxes. DEC Counsel will decide the way your case is heard.

- Please note, even if you do not request a hearing, Enforcement Counsel, DEC Counsel, or the DEC may still request a hearing, in which case a hearing will be scheduled. If there is a hearing, the Hearing Panel may continue with the hearing even if you or Enforcement Counsel do not appear at the hearing.

STEP 3: Select the amount of time you believe is necessary for you to present your defense. Note that most CFP Board hearings are completed within two hours total, which includes the time needed for both Enforcement Counsel and a Respondent to present their cases.

STEP 4: Sign and date the Acknowledgment Form and file it with the DEC, together with your Answer, by email to the DEC's email address: decfilings@cfpboard.org.

The Answer and the signed Acknowledgment Form are due 30 days after Enforcement Counsel delivered the Complaint to you. The process for filing an Answer is discussed below.

f. The Complaint has an Invoice attached to it. Why?

All matters that go before the DEC for a hearing or settlement review include a DEC Review Fee. Within 30 days after receipt of the Complaint, you should either pay the fee or request a fee reduction or waiver. (Article 17.4.) If you request a fee reduction or waiver, you must submit a written request to Enforcement Counsel with supporting documentation that demonstrates a financial hardship. If, following a hearing, the DEC finds no ground for sanction, CFP Board will refund your fee.

VIII. RESPONDING TO THE COMPLAINT

a. How do I File an Answer to the Complaint?

Your Answer is due within 30 days of Enforcement Counsel delivering the Complaint to you. You must deliver your Answer to Enforcement Counsel and, at the same time, file your Answer with the DEC, by email to decfilings@cfpboard.org.

Article 3.2 of the *Procedural Rules* requires you to provide a “detailed response to each numbered paragraph of the Complaint that either admits or denies each statement or allegation, or states that Respondent is unable to admit or deny due to lack of knowledge. If Respondent fails to respond to a specific statement or allegation contained in any numbered paragraph, the DEC may deem the statement or allegation admitted.”

For example, suppose paragraph 1 of your Complaint reads as follows:

1. Respondent (that's you) became a CFP® professional on April 1, 2010, and has been certified since that date.

If that is true, your Answer should read:

1. Admit.

If it is untrue because, for example, the date was actually one year later, your Answer could read:

1. Deny. I became a CFP® professional on April 1, 2011, and I have been certified since that date.

It is important that you do not simply deny the paragraph but also provide an explanation for your denial.

You must go through the Complaint, paragraph by paragraph, and provide your answer to each numbered paragraph in turn. This helps the Hearing Panel and the DEC to identify and focus the hearing on the areas of disagreement.

If you have retained counsel to represent you in your response to the Complaint, identify that counsel and provide their contact information in the Answer. (Article 17.2.)

You should also include in your Answer a statement containing any defenses or factual explanations that respond to the allegations.

You also may want to address an appropriate resolution to the Complaint. You can cite to any relevant mitigating factors, Sanction Guidelines or the Case Histories you would like the DEC to consider as it decides the appropriate resolution of the Complaint. These concepts are discussed in more detail in Section X.

For more detailed information, look at Article 3 of the *Procedural Rules*.

b. What if I do not file an Answer?

If you do not file an Answer, you will be in default, and Enforcement Counsel will file a Motion requesting that DEC Counsel issue an Administrative Order of Suspension, Bar or Revocation. (Article 4.)

c. Am I able to request documents from CFP Board?

Yes. After receiving a Complaint, you may request that Enforcement Counsel produce relevant documents that could be useful to your proceeding. This right is subject to a number of limitations, including the attorney-client privilege, work product doctrines and confidentiality. CFP Board will undertake reasonable efforts to make redactions from these documents for privacy purposes. (Article 6.1.)

IX. SETTLING A COMPLAINT

a. Is it possible to settle the Complaint, rather than submitting an Answer?

Yes. Article 8 of the *Procedural Rules* discusses the settlement process. Enforcement Counsel and you can agree to a settlement before or after a Complaint is filed. (See Section IV of this Handbook.) The settlement will be drafted as a proposed Consent Order. After you and Enforcement agree to a proposed Consent Order, it must be submitted to the DEC, which will review the proposed Consent Order and decide to accept or reject it. You will receive a response directly from the DEC about their decision regarding your settlement offer.

For more detailed information, see Article 8 of the *Procedural Rules*. After reviewing Article 8, if you wish to discuss a potential settlement, please contact the Enforcement Counsel assigned to your matter.

b. Do I need to submit anything else with the proposed Consent Order?

Both you and Enforcement Counsel may submit joint or individual Settlement Memoranda. A Settlement Memorandum contains each side's explanation for why the proposed Consent Order is an appropriate resolution of the allegations in the Complaint. (Article 8.) This is your opportunity to explain to the DEC why the DEC should accept your settlement offer and enter the Consent Order.

You may also submit any additional documents you believe further support settling the matter.

c. Can I submit a proposed Consent Order without CFP Board Enforcement Counsel's approval?

No. All proposed Consent Orders must have both parties' approval (yours and Enforcement Counsel's), before being forwarded to the DEC for review. Do not submit a proposed Consent Order directly to the DEC without agreement from Enforcement Counsel.

X. PREPARING FOR A HEARING

a. What should I do to prepare for the hearing?

You will receive two important documents from DEC Counsel prior to your hearing that you should review carefully. The first is a Notice of Hearing that will be sent to you 30 days before your scheduled hearing. It will include the date, place and time of the hearing and will state whether the hearing will be in person or by video conference. You should put the hearing date and time on your calendar. Please note the time zone for the time of the hearing. (Article 10.1.)

The second is the "DEC Book," which you will receive 45 days prior to the hearing. The DEC Book is the collection of documents that the Hearing Panel and the DEC will carefully review prior to your hearing, and which the Hearing Panel, DEC Counsel, you and Enforcement Counsel will have available and refer to during the hearing. The DEC Book will include CFP Board's Complaint, your Answer and other documents submitted during the Complaint process. (Article 10.5.) You should have the DEC Book available to you during the hearing. You and Enforcement Counsel should rely on the DEC Book and refer to the DEC Book throughout the hearing to identify information and documents that support your argument. For instance, during your presentation at the hearing, you may request that the Hearing Panelists turn to page 150 of the DEC Book to review a cash flow statement you submitted and would like to discuss further.

If you did not receive a DEC Book prior to your hearing, please let DEC Counsel and Enforcement Counsel know as soon as possible. It is important for you to review Article 10 of the *Procedural Rules* for further information about hearings.

b. Can I present evidence and witnesses at the hearing?

Yes. You must identify witnesses in writing by the date that DEC Counsel provided to you in the Scheduling Order. Your witness notice must include the witness' name, address, email address and phone number, as well as a description of the subject matter the witness' testimony. You should also indicate whether you intend the witness to appear at the hearing in person or by video. (Article 10.3.b.)

If you have additional evidence that you wish to use at the hearing that is not already included in Exhibit A to the Complaint, you must submit the additional evidence to Enforcement Counsel and DEC Counsel by the date that DEC Counsel provided in the Scheduling Order. These materials may be added to the DEC Book along with all other materials for the Hearing Panel's consideration. (Article 10.3.a.)

By the date indicated in the Scheduling Order, you may submit a written statement setting forth any issues relevant to matters raised in the Complaint. (Article 10.3.d.)

You should confer with Enforcement Counsel to see whether you can stipulate to facts that can help streamline the hearing. (Article 10.3.e.) A stipulation means both you and Enforcement Counsel agree that an assertion of fact is true, and because you both agree it is true, you both agree not to dispute the fact at the hearing. Stipulations may help a hearing go faster and more efficiently.

c. Who has the burden of proof?

Enforcement Counsel has the “burden of proof” to prove that you violated CFP Board’s *Code and Standards* or the *Pathway Agreement*. The standard of review is the “preponderance of the evidence,” which means that it is more probable than not. CFP Board hearings are not identical to the court cases you may have seen on television. While the hearing will have some of the elements of a trial that you will be familiar with, hearings before the DEC are peer-review in nature and have procedures that are less formal than the technical procedures used in courts. DEC Counsel will consider objections involving matters of procedure or evidence and rule on those objections during the hearing.

d. How long should the hearing take?

Prior to filing your Answer, you may confer with Enforcement Counsel to discuss the anticipated length of time for the hearing. You will indicate the amount of time you are requesting to present your defense on the Acknowledgement Form that you file with your Answer. Most hearings before the DEC are completed in a total of two hours or less, including time for both Enforcement Counsel and for you. Some cases are more complex and require more time. Prior to the hearing, DEC Counsel will provide a breakdown for the hearing that lays out anticipated timing for the various parts of the hearing. Use this breakdown to prepare for the hearing. For example, DEC Counsel may allot four minutes for your opening statement. Prepare and practice to ensure your opening statement meets that time frame.

e. Can I call Enforcement Counsel before the hearing?

Yes. If you have procedural questions or questions about the process of a hearing, feel free to reach out to the Enforcement Counsel that signed the Complaint. If you contact DEC Counsel, you must copy Enforcement Counsel. You may also contact CFP Board’s compliance department via email at compliance@cfpboard.org.

Remember that no Enforcement Counsel, DEC Counsel, or any attorney at CFP Board is your attorney, and no attorney at CFP Board will provide you with specific legal advice.

f. If the DEC finds that I violated a rule or standard, how does it determine the sanction?

If the DEC finds that a violation occurred, the DEC will decide a sanction appropriate to the unique facts of your case. The DEC will consult CFP Board’s Sanction Guidelines and Case Histories for guidance. You should look to these same sources to propose to the DEC what sanction you believe is appropriate for your case and why.

1. **Sanction Guidelines:** The DEC may refer to CFP Board’s Sanction Guidelines to assist it in determining an appropriate sanction. The Sanction Guidelines provide non-binding guidance to the DEC by listing recommended sanctions for different types of conduct. The Sanction Guidelines also include a non-exhaustive list of aggravating and mitigating factors. You should review the Sanction Guidelines and the aggravating and mitigating factors before your hearing. Enforcement Counsel identifies relevant Sanction Guidelines in the Complaint, but you may find there are other applicable guidelines or factors that you would like the DEC to consider.

2. **Case Histories:** CFP Board publishes information about previous cases that the DEC adjudicated. The DEC may consult these previous cases when tailoring a sanction. You should review the Case Histories database on CFP Board's website to draw the DEC's attention to cases that you believe are similar to your matter. Note that Case Histories describing Administrative Orders issued by DEC Counsel will not be useful for this purpose because they do not involve the DEC's consideration of the underlying facts and circumstances, so you should not include them when presenting Case Histories to the DEC.

XI. WHAT TO EXPECT DURING A HEARING?

a. What are the typical parts of a hearing?

DEC Counsel will determine the conduct of the hearing, including the order of the proceeding and allocations of time. Generally, however, the hearing will proceed in the following order:

1. **Preliminary Matters:** Before each party makes its presentations at the hearing, you will be asked if you have any preliminary matters that DEC Counsel needs to address. This is NOT the time to give your opening statement but rather to address matters that would have an impact on the hearing itself. For instance, a preliminary matter may include any unresolved pre-hearing motions, additional evidence to enter into the record, or procedural questions about the case.
2. **Opening Statements:** Because Enforcement Counsel has the burden of proof, Enforcement Counsel will present an opening statement first, and you will go second. In your opening statement, identify the topics that you wish to address more fully during your presentation. Consider this a roadmap for your case, but NOT a full presentation of your case. Opening statements are typically four minutes each. Please refer to time limits that DEC Counsel provided in the hearing breakdown.
3. **Enforcement Counsel's Case-in-Chief:** After both sides have provided their opening statements, Enforcement Counsel will present the facts and issues raised in the Complaint. Enforcement Counsel may also refer to the relevant Sanction Guidelines and Case Histories and may recommend a sanction. Hearing Panel members may question Enforcement Counsel and any witnesses. You may then ask questions of Enforcement Counsel and any witnesses.
4. **Your Case in Chief:** After Enforcement Counsel has presented its case to the Hearing Panel and you are finished asking questions of Enforcement Counsel and any witnesses, then it is your turn to present your case. Your case presentation is limited to the documents and witnesses that you provided or identified in advance of the hearing. (Articles 10.3.a. and 10.3.b.) After you conclude your presentation, Hearing Panelists, then Enforcement Counsel, may ask questions of you and your witnesses.
 - Using the roadmap from your opening statement, expand upon those topics to explain the circumstances that led to the Complaint. This is where you can refer to pages from the DEC Book and present any previously identified witnesses you may have at the hearing. This is your opportunity to explain what happened that brought you to the hearing. This is also your opportunity to request the result you would like the DEC to reach (i.e., dismiss the case because Enforcement Counsel did not prove its case, or propose a particular sanction) and refer to any Case Histories, Sanction Guidelines and mitigating factors you believe support your desired result.

5. **Closing Statements:** Enforcement Counsel will summarize the case in a closing statement and may propose a sanction for the Hearing Panel to consider. Then it is your turn. Closing statements should be brief and focus on the issues discussed during the hearing.
 - The closing statement is a brief summary of your case in chief and your opportunity to suggest to the Hearing Panel what you believe the proper sanction, if any, should be. This is a brief summary, and your last opportunity to speak to the Hearing Panel. Closing statements are typically three minutes each.

Additional Tips:

- Be respectful of the process: DEC members are volunteers. They are not paid to review matters for CFP Board. The DEC and your Hearing Panel are comprised of CFP® professionals and other volunteers who likely have backgrounds and experiences similar to yours.
- **Answer the questions asked:** Although the Hearing Panel has carefully reviewed the DEC Book prior to the hearing, documents don't always tell the entire story. You should expect questions about the documents or your testimony and what they mean.
- **Prepare your witnesses:** For any witnesses you identified prior to your hearing, tell them the date and time your hearing will occur. Please ask your witnesses to keep their phone close by on the day of the hearing so that when you are ready for the witness to testify, you can easily contact and direct them to log into the hearing. Witnesses cannot attend the entire hearing. You will call your witness when it is time to testify. The witness will enter the hearing, provide their testimony, answer any questions, and then be excused from the hearing.
- **Test your computer:** For video conference hearings, connect to the video conference at least 15 minutes before the scheduled start time. This provides you time to fix any technology issues. Check your username and any video filters that may have been accidentally left on by someone using your computer. When you log in, you are placed in a waiting room until everyone who is required to attend is present. You will then be permitted access into the hearing, and you will see all the participants. Have your video on and your background set. Keep yourself muted until asked a question, then unmute, answer the question, and then re-mute. Review this link for common video conferencing etiquette: emilypost.com/advice/zoom-etiquette-tips-for-better-video-conferences.

XII. WHAT HAPPENS AFTER A HEARING?

The Hearing Panel will deliberate, or confer privately, to make a recommendation to the DEC about the outcome of the case. Then the DEC will review that recommendation before issuing its final order. The DEC typically reviews Hearing Panel recommendations within about two months after your hearing. The DEC generally meets six times a year to conduct hearings, review settlement offers and adjudicate cases. When the DEC confers at its next meeting after your hearing, it will have the opportunity to review the transcript of your hearing, review the DEC Book and review the Hearing Panel's recommendation. Then, the DEC confers and makes its final determination. Note that it takes time for the DEC to issue its order that explains the reasons for its decision. The DEC's final order will be provided to you and Enforcement Counsel simultaneously.

If you receive a sanction from the DEC, review the order carefully because it likely contains additional requirements that must be completed.

Also, if you receive a public sanction, it will be published as discussed in Section VI above.

After the DEC issues its order, you have the right to file an appeal within 30 calendar days from the issuance of the DEC's final order. Reasons for appealing a DEC decision include a belief that the factual findings are unsupported by substantial evidence, that the DEC's interpretation or application of the rules was unreasonable, or that the DEC abused its discretion when imposing the sanction. Please refer to Article 15 of the *Procedural Rules* to learn more about the appeal process.

XIII. ADDITIONAL RESOURCES

CFP Board has produced a number of materials that can help you navigate the investigation and hearing processes.

- **Code of Ethics and Standards of Conduct** – the foundational document that reflects the commitment that all CFP® professionals make to high standards of competency and ethics. When CFP Board investigates misconduct, it is generally looking into violations of the *Code of Ethics and Standards of Conduct* (or its predecessor standards, applicable to older conduct [together, the *Code and Standards*]).
- **Procedural Rules** – sets forth CFP Board's enforcement process and governs the conduct of investigations, the processes for hearings, settlements, appeals, reinstatements, and related matters.
- **Sanction Guidelines** – a framework of recommended sanctions for different categories of conduct, which may be applied when CFP® professionals are found to have violated the *Code and Standards*.
- **Case Histories** – detailed summaries of past cases decided by the DEC. These histories identify the issues in previous cases, describe the DEC's factual findings, and provide the DEC's rationales for finding violations and its reasoning for any sanctions. As noted above, Case Histories about Administrative Orders are not to be used at DEC Hearings.
- **Terms and Conditions of Certification and Trademark License** – a document reflecting the contractual agreement between you and CFP Board, which explains how you may use your CFP® certification and reinforces your commitment to CFP Board's standards.

Additional compliance resources can be found in CFP Board's Compliance Resource library at [CFP.net/compliance](https://www.cfp.net/compliance). You may also send questions about CFP Board's standards and enforcement process to compliance@cfpboard.org.

CFP BOARD

1425 K St NW #800 Washington, DC 20005
800-487-1497 | f 202-379-2299 | mail@cfpboard.org | CFP.net